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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,919	10/14/2003	John Brandon Dobbs	1924.005	3550

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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/684,919	DOBBS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David J Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10-14-03</u>  | 6) <input type="checkbox"/> Other: _____                                    |

**Detailed Action**

**Detailed Action**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 1 and 4, the limitation of the scent dispersing from the inner layer without manipulation of the container is not supported in applicant's disclosure in this application or parent application 10/196,901. Applicant's disclosure only states that the scent is imparted to the object in the container and does not state if any manipulation or no manipulation is needed to carry this out.

***Claim Rejections - 35 USC § 102***

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2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,707,696 to Boxler.

Referring to claim 1, Boxler discloses a method of storing and imparting scent to an object comprising, providing a container – at 10,12, having an outer layer fabricated of a moisture and gas barrier material and an inner layer comprising a film extruded from a mixture of a polymeric material and a scented compound – see for example columns 2-3, such that the inner layer has a scent that disperses from the inner layer without manipulation of the container, opening the container, positioning the object in the container, sealing the container to encapsulate the object in the container and storing the object in the container for a period of time sufficient to permit the scent of the inner layer to disperse from the inner layer without manipulation of the container and to be imparted to the object while the outer layer serves as a barrier to prevent surrounding objects from being contaminated with the scent – see for example columns 2-3.

Referring to claim 2, Boxler discloses the inner and outer layer is fabricated of a flexible material – see for example columns 2-3.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,297,354 to McGriff in view of Boxler.

Referring to claims 1 and 4, McGriff discloses a method of storing and imparting scent to an object or fish bait, comprising, providing a container – at 10, 14, having an outer layer – at 14, fabricated of a moisture and gas barrier material and an inner layer – at 26, comprising a scent or fish attractant scent – at 50, such that the inner layer has a scent/fish attractant scent that disperses from the inner layer without manipulation of the container, opening the container, positioning the object/fish bait in the container, sealing the container to encapsulate the object/fish bait in the container and storing the object/fish bait in the container for a period of time sufficient to permit the scent/fish attractant scent of the inner layer to disperse from the inner layer without manipulation of the container and to be imparted to the fish bait while the outer layer serves as a barrier to prevent surrounding objects from being contaminated with the scent/fish attractant scent – see for example figures 1-2 and columns 2-4. McGriff does not disclose the inner layer comprises a film extruded from a mixture of a polymeric material and a compound scented with a scent/fish attractant. Boxler does disclose the inner layer is a film extruded from a polymeric material and a compound scented with a scent – see for example columns 2-3. Therefore it would have been obvious to one of ordinary skill in the art to take the method of McGriff and add the inner layer being an extruded film of a polymeric material and a

scented compound of Boxler, so as to allow for the container to be easily manufactured and easier to use in that the scent does not have to be continually added to the container.

Referring to claims 2 and 5, McGriff as modified by Boxler further discloses the outer layer and the inner layer is fabricated from a flexible material – see for example column 3 lines 25-50 of McGriff.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boxler, Boxler as modified by McGriff and McGriff as modified by Boxler as applied to claims 1 and 4 above, and further in view of U.S. Patent No. 5,632,113 to Raymond et al.

Referring to claims 3 and 6, Boxler and McGriff do not disclose the container is secured to a ring binder carrying case. Raymond et al. does disclose the outer layer is provided with at least one hole – (at 4,5) to permit the container – 13 to be secured to a ring binder carrying case – 1 and 6 – see for example figures 6-7. Therefore it would have been obvious to one of ordinary skill in the art to take the method of Boxler, Boxler as modified by McGriff and McGriff as modified by Boxler and add the outer layer with a hole to allow the container to be secured to a ring binder carrying case of Raymond et al., so as to make the device more user friendly in that it can be easily transported and supported.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boxler in view of McGriff.

Referring to claim 4, Boxler discloses a method of storing and imparting scent to an object comprising, providing a container – at 10,12, having an outer layer fabricated of a moisture and gas barrier material and an inner layer comprising a film extruded from a mixture of a polymeric material and a scented compound – see for example columns 2-3, such that the

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inner layer has a scent that disperses from the inner layer without manipulation of the container, opening the container, positioning the object in the container, sealing the container to encapsulate the object in the container and storing the object in the container for a period of time sufficient to permit the scent of the inner layer to disperse from the inner layer without manipulation of the container and to be imparted to the object while the outer layer serves as a barrier to prevent surrounding objects from being contaminated with the scent – see for example columns 2-3. Boxler does not disclose the container uses a fish attractant scent to impart a fish attractant scent to a fishing bait. McGriff does disclose a container – at 14, imparting a fish attractant scent – at 50, to a fishing bait – at 12 – see figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the method of Boxler and add the scent being a fish attractant to be imparted to a fishing bait of McGriff, so as to allow for one to increase the effectiveness of fishing by making a fishing bait more attractive to fish.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to show the state of the art with respect to scented bags/containers in general:

U.S. Pat. No. 6,024,767 to Telesca et al. – shows scented-bag

5. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be

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reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.

A handwritten signature in black ink, appearing to read "Peter M. Poon". The signature is stylized with a large initial "P" and a long horizontal stroke at the end.

Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600

3/30/04